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November 12, 2009

RECEIVED
FEDERAL ELECTION
COMMISSION

2009 NOV 13 PM 5:27
OFFICE OF GENERAL
COUNSEL

The Honorable Mary W. Dove
Federal Election Commission
Office of the General Counsel
999 E Street, NW
Washington, DC 20463

Re: National Right to Life Political
Action Committee and Carol
Tobias, in her official capacity as
treasurer, MUR 6133 (2003-04
election cycle)

Dear Madam Secretary:

As you know, Respondents National Right to Life Political Action Committee ("NRLPAC") and Carol Tobias, in her official capacity as treasurer, have designated James Bopp, Jr. and Barry A. Bostrom as counsel. We thank the Commission members for the opportunity to be heard at the probable cause hearing on Wednesday, November 4, 2009. Several issues were raised at the hearing that the Commission permitted further response to address. This is our response to those issues. Enclosed are the original and nine copies of this response. Three copies have been submitted to the Office of the General Counsel.

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First, Commissioner Hunter raised a question as to whether the PAC had the same compliance employees in 2003-04, as when the PAC was founded in 1980. Of course, the answer is no. Amarie Natividad was appointed treasurer in 1995 and served until 2008, when Carol Tobias was appointed. Although Amarie Natividad had several years experience as treasurer, the 2003-04 election cycle was the first election cycle in which the new BCRA independent expenditure reporting rules were in place. The issue of when independent expenditures triggered 24/48 hour reporting notices was a new issue in the 2003-04 election cycle. Since Form 3X requires the "date of disbursement," i.e., payment, staff assumed that the "date" of the independent expenditure on Form 5 also was the date of disbursement.

Second, the Office of General Counsel raised a question as to whether some reports were late, even if NRL PAC used the "payment date," instead of "dissemination date." After conferring with our client, and reviewing the record, it is clear that NRL PAC did not file 24 hour notices after the primary and general elections, for expenditures before the elections. They did not file notices because the billing was not received and payment made until after the election. A review of the 24 hour notices filed reveals that most of the notices filed for payments made before an election were timely. Those that were late were due to the misconception that the 24 hour reporting period didn't include Saturdays and Sundays. When the payment date occurred after the election, no 24/48 hour notice was filed because that was outside the 24 hour reporting period. Instead the expenditures were reported on the post-general election and quarterly reports as usual. See attached chart of 24 hour notices filed.

Third, the Office of General Counsel raised a question as to whether the Commission sent out RFAs about independent expenditure reports filed after the quarterly reports were filed. Yes, RFAs were sent on July 14, 2004 (Amended April Quarterly Report), Dec. 1, 2004 and June 3, 2005 (Amended October Quarterly Report). These RFAs stated that Schedule E "indicates that your committee may have failed to file one or more of the required 24/48 hour notices for independent expenditures." In response to these RFAs, the PAC prepared 24/48 hour notices and filed them in late 2004 for primary independent expenditures, and in mid 2005 for general election independent expenditures.

Federal Election Commission

November 12, 2009

Page 3

Fourth, the Office of General Counsel raised a question as to why independent expenditures of \$571,000 were reported on the October quarterly report, but the 24/48 hour notice was not filed until mid 2005. The quarterly report included independent expenditures which were made during the 48 hour notice period. The 24/48 hour notices were filed in 2005 for independent expenditures made in 2004 because the PAC was filing them for the first time in response to RFAs suggesting that 24/48 hour notices should have been filed.

Fifth, no 48 hour notices were filed at all, except in response to the RFAs, because staff was not aware of the 48 hour reporting requirement for independent expenditures. Those expenditures for which 48 hour reports should have been filed are:

G.W. Bush - \$571,816.32

Richard Burr - \$13,670.64

Christopher S. Bond - \$22,558.64

Tim J. Michels - \$25,945.40

Peter Coors - \$13,593.88

Mel Martinez - \$23,522.09

The total amount of independent expenditures that should have been reported on 48 hour notices is: \$671,106.97. These expenditures were made on October 1, 2004, and notices should have been filed by October 3, 2004. They were reported on the October 22, 2004, Pre-Election Report.

Please contact me regarding any additional information needed regarding this matter. Thank you.

Sincerely,

BOPP, COLESON & BOSTROM



James Bopp, Jr.

Barry A. Bostrom

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CHART OF 24/48 HOUR NOTICES FILED

Report Date	Date Expended	Totals	State, Primary Date
2/10/2004	2/9/2004	\$ 3,161.24	KY, 5/18
4/15/2004	4/14/2004	\$ 11,188.46	PA, 4/27
4/21/2004	4/20,21/2004	\$ 3,013.20	PA, 4/27
4/23/2004	4/22/2004	\$ 6,200.00	PA, 4/27
7/16/2004	7/16/2004	\$ 18,000.00	MO, KS, 8/03
7/22/2004	7/21/2004	\$ 4,259.65	OK, 7/27
7/23/2004	7/23/2004	\$ 14,578.00	KS, MI, MO, 8/03
			CO, 8/10,
			OK, 7/27
8/19/2004	8/19/2004	\$ 2,081.91	AZ, 9/07

Report Date	Date Expended	Totals
10/15/2004	10/14/2004	\$ 158,662.35
10/18/2004	10/15/2004	\$ 70,334.50
10/19/2004	10/18/2004	\$ 18,510.00
10/20/2004	10/19/2004	\$ 143,349.90
10/21/2004	10/20/2004	\$ 397,995.08
10/22/2004	10/21/2004	\$ 192,960.83
10/25/2004	10/22/2004	\$ 154,247.50
10/26/2004	10/25/2004	\$ 263,761.70

10/27/2004	10/26/2004	\$ 50,478.44
10/28/2004	10/27/2004	\$ 131,884.23
10/29/2004	10/28/2004	\$ 2,859.67

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Report Date	Expenditure Date	Total	Previous Report Total
6/29/2005	7/27/2004	\$ 6,319.21	\$ 4,259.65
6/29/2005	9/28/2004	\$ 16,971.70	n/a
7/6/2005	10/14/2004	\$ 174,574.30	\$ 158,662.35
7/6/2005	10/18/2004	\$ 642,664.45	\$ 18,510.00
7/6/2005	10/19/2004	\$ 143,213.90	\$ 143,349.90
7/6/2005	10/20/2004	\$ 387,495.08	\$ 397,995.08
7/6/2005	10/21/2004	\$ 202,582.11	\$ 192,960.83
7/6/2005	10/25/2004	\$ 279,026.47	\$ 263,761.70
7/6/2005	10/26/2004	\$ 38,039.59	\$ 50,478.44
7/7/2005	10/27/2004	\$ 33,860.18	\$ 131,884.23
7/7/2005	10/28/2004	\$ 30,396.42	\$ 2,859.67
7/7/2005	10/29/2009	\$ 211,685.66	n/a (GOTV Calls)
7/7/2005	10/30/2004	\$ 27,062.38	n/a
7/7/2005	10/15/2004	\$ 71,515.15	\$ 70,334.50
7/8/2005	8/16/2004	\$ 863.48	n/a
7/8/2005	8/2/2004	\$ 4,129.04	n/a (primaries)
7/8/2005	8/9/2004	\$ 682.77	n/a (primaries)
7/8/2005	9/6/2004	\$ 647.09	n/a (primaries)
7/8/2005	10/1/2004	\$ 754,113.01	n/a (EU Services)
7/8/2005	10/11/2004	\$ 59,696.58	n/a (NRL List Purchase)

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